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**OFFICIAL USE**

The CJIS Policy Council Act, 1974 PA 163 (MCL 28.211 et. seq.), grants DHS access to Michigan Criminal Justice Information Systems (MICJIN). Accessing the Law Enforcement Information Network (LEIN) must only occur as authorized by DHS in the performance of official duties. Any inappropriate access, use, or disclosure of LEIN information may result in disciplinary action. County directors are responsible for authorizing appropriate staff to access LEIN and for maintaining the security, confidentiality and the appropriate use of LEIN information.

**Note:** LEIN information cannot be requested on individuals under the age of 10 or over 100 years of age.

**DEFINITIONS OF  
TERMS APPLICABLE  
IN THE DISCLOSURE  
OF LEIN  
INFORMATION****General Statement**

A statement which summarizes the behavior of an individual but does not use the legal terminology found on LEIN documents; for example "Information obtained from law enforcement indicates that Mr. X has a history of illegal sexual acts that do not include minors."

**LEIN Documents**

The actual printed paper (or photocopy) report received from a law enforcement agency or generated from the DHS-based LEIN terminal, in response to a LEIN request.

**LEIN Information**

The information contained in the LEIN document; for example, "Mr. X was convicted of second degree criminal sexual conduct."

**Verified LEIN  
Information**

Information obtained from credible sources (including the Internet Criminal History Tool (ICHAT) clearance, police or court documents, personnel or records) which **corroborates** information obtained from LEIN. It may be the same as the actual LEIN information itself, such as "the Wayne County Sheriff's Department

confirmed that Mr. X was convicted of second degree criminal sexual conduct.” Another example is police reports that contain information about arrests for violence in the home, etc. Law enforcement officers may be subpoenaed to testify, as needed in court. Consultation with the prosecuting attorney or DHS legal representation is encouraged regarding evidential value of this information.

## **LEIN OVERVIEW**

Local office child welfare programs have access to information on the LEIN through an agreement with the Michigan State Police. This access includes the following information:

- State of Michigan criminal history information.
- Sex offender registry.
- Missing/wanted persons.
- Gun registration/permits.
- Personal protection orders (PPO).
- Officer cautions.

LEIN also interfaces with the following agency applications:

- Michigan Department of Corrections to provide Prison/Parole/Probation records.
- Michigan Secretary of State (SOS) to provide driving and vehicle records.
- National Crime Information Center (NCIC) to provide out-of-state ‘wanted’ records. ‘Wanted’ records include: PPO, sex offender, immigration and terrorism violations.

Information not available to DHS is Canadian and Mexican criminal history information. This information is restricted to “criminal justice agencies.”

## **LEIN Requests**

Verified information from criminal records checks can be very useful in assessing the potential risk for abuse of a child by their parent and/or other person(s) responsible for the child’s health and welfare. Evaluate all information received from the reporting person, the client, a LEIN check, and other collateral sources of information that an adult caretaker has a history of violent behavior or was arrested for or convicted of a crime. CPS may conduct LEIN

clearances during the course of any investigation in which it is believed a LEIN clearance will provide additional information.

### ***Required LEIN Requests***

At a minimum, a LEIN check must be conducted on all parents, person(s) responsible for the health and welfare of the child, and all household members for all sexual abuse, physical abuse, suspected caretaker substance abuse, drug-exposed infant cases, methamphetamine production allegations, and cases where domestic violence allegations may be present. CPS must also conduct a LEIN check on other individuals (including minor household members) involved in CPS cases when there is reason to believe that this information is necessary to make a decision regarding child or worker safety. LEIN checks are required when considering placement with non-custodial parents and relatives; see PSM 715-2, Removal and Placement of Children. It is recommended that all LEIN clearances be completed and evaluated by the investigating worker prior to making contact with a family. In situations in which DHS has documented a risk that leads to reasonable apprehension regarding the safety of performing a home visit, workers must complete a LEIN clearance prior to contact with a family. This will enable the worker to evaluate both child safety issues as well as worker safety issues.

### **Requesting a LEIN Clearance**

Use the Criminal History Information Request (SWSS CPS-generated DHS-269) form to request LEIN clearances. The subject of the LEIN clearance and the reason for requesting a LEIN clearance must be documented on this form. The case number/SWSS log number will be pre-filled on the DHS-269. A copy of the DHS-269 must be maintained in the case file or SWSS CPS.

### **Evaluation of LEIN Information**

Evaluate any information received from a parent, relative or others, a LEIN check, ICHAT clearance, or other collateral sources of information that an adult caretaker has a history of violent behavior or was arrested for or convicted of a crime. Care and discretion must be used in evaluating the information received. The existence or nonexistence of an arrest or criminal record is only one factor in assessing risk. The nonexistence of an arrest or criminal record is not **necessarily** an indication of low risk.

The existence of an arrest or criminal record must be assessed in light of when (how long ago) the offense occurred and whether any treatment was provided and whether it was effective. The information obtained must be evaluated for risk and making a decision regarding the safety of the child. Information which indicates the parent or adult was involved in violent behavior, or convicted of crimes against persons (including children) or crimes against self, including substance abuse, should be given particularly close attention. Sexual abuse, physical abuse and domestic violence convictions must also be closely examined to determine if there will be a risk to the child. (See Adverse Actions below for restrictions on placement due to criminal convictions.) These types of convictions may be an indication of the dynamics within the family that could place a child at risk.

### Adverse Actions

If the results of a LEIN check indicate that a parent, other person(s) responsible for the health and welfare of the child, or household members have an arrest or conviction for child abuse or neglect, for domestic violence, for a crime against children, or for a crime involving violence including criminal sexual conduct or homicide, a petition for court jurisdiction may be needed. See PSM 715-3, Family Court: Petitions, Hearings and Court Orders, for further information on petitions and also PSM 712-6, CPS Intake-Special Cases and PSM 713-08, Special Investigative Situations, Complaints Involving A Known Perpetrator Moving In or Residing With a New Family sections. If the individual presents imminent risk of harm to a child in the home, first consideration should be given to requesting that the individual who presents the risk be ordered to leave the home versus requesting removal of the child.

See PSM 715-2, Placement of Children with Non-Custodial Parents and Relatives for more information on evaluating unlicensed homes for child placement and prohibitions on placements due to certain types of convictions.

### LEIN Document Disposal

LEIN documents **must not** be filed in the case record. This does not include the DHS-269; see Requesting a LEIN Clearance in this item. LEIN documents must be cross-cut shredded after review, verification of data and summary of this verified information into narratives, safety plans and/or petitions. LEIN clearances cannot be

disposed of in confidential recycling bins that are shredded outside the building.

**Documentation of  
Verified  
Information in  
Petitions, ISP,  
USP, Home  
Studies and Other  
Reports**

Only verified information can be documented in the narratives of the Investigation Report (DHS-154), Updated Services Plans (DHS-152), Relative/Unrelated Caregiver/Guardian Home Study (DHS-197), safety plans and/or petitions. Information being used as evidence of child abuse/neglect must be cited in petitions and case narratives and backed up by verified (corroborated) information from the source of LEIN. Absolutely no information solely from LEIN shall be included in department reports. LEIN information must be verified by another source which can be cited in reports.

When petitions, ISPs, USPs, home studies, court reports, etc., written prior to June 1, 2007 are shared with the court, private child placing agencies, treatment providers, foster parents and **all other entities external** to the department, the fact that a LEIN check was done and the **specific** information obtained from LEIN must be redacted and removed from the report. LEIN documents cannot be attached to, or submitted with petitions. Again, information obtained from verification of LEIN information can be cited in court petitions.

Case narratives (ISP and USP), court reports, etc., may include verified LEIN information when such information is required by the juvenile code or the information is the basis for case decision-making. The following are credible sources for verified information that can be quoted:

- Police/law enforcement.
- Prosecuting attorney's office.
- Internet Criminal History Tool (ICHAT).
- Offender Tracking Information System (OTIS).
- Sex Offender Registry.
- Secretary of State (SOS).

**Note:** Reports, petitions, home studies, etc. cannot quote from the LEIN or specify unverified LEIN information. The word LEIN **cannot** be used in any report. Additionally, workers cannot disclose that

LEIN had been accessed to obtain criminal history information or disclose any unverified criminal history information to the individual on which the LEIN check was completed.

### **Disclosure of LEIN Information**

Due to confidentiality issues, LEIN information and/or documents must not be shared via phone, fax or electronic mail (email).

LEIN documents can only be released to the court pursuant to a court order or subpoena issued by the Circuit Court, including the Family Division; see SRM 131, Confidentiality - Law Enforcement Records.

The CJIS Policy Council Act, MCL 28.211 et. seq., granting DHS enhanced LEIN access, states that DHS shall not disclose non-public information governed under this act. The following categories of people, although not an exhaustive list, may **not** be given access to LEIN information, either directly or indirectly, by DHS:

- Private child placing agencies.
- Contractors.
- Individuals, agencies and entities external to DHS.
- Unauthorized DHS staff or authorized staff for unauthorized purposes.

LEIN information is not subject to FOIA requests and can only be released through a court order or subpoena.

The law also specifies criminal penalties for noncompliance with the confidentiality provisions of the law.

### **Penalty for Improper Release of LEIN Information**

CJIS Policy Council Act, MCL 28.211 et. seq., prohibits the disclosure of LEIN information to any private entity for any reason. The first offense is a misdemeanor punishable by 93 days imprisonment or \$500. fine, or both. The second offense is a felony punishable by not more than four years imprisonment or \$2,000 fine, or both.

**Staff found to have misused LEIN information will be subject to disciplinary action up to and including dismissal.**

All suspected violations of LEIN policy pertaining to unauthorized access, use or disclosure are to be immediately forwarded to the local office LEIN coordinator and the Office of Inspector General.

## OUTSTANDING WARRANTS

DHS offices must contact law enforcement agencies when they become aware of the whereabouts of a person with any outstanding warrant. DHS must inform law enforcement of the location of the individual and the individual's involvement, if any, with a DHS case. This notification of local law enforcement should be recorded in the Social Work Contacts module of SWSS CPS.

**Note:** Workers cannot disclose that LEIN was accessed to obtain criminal history information or disclose any unverified criminal history information, including the existence of a warrant, to the individual on which the LEIN check was completed or any entity external to DHS (except for the local law enforcement agency, as indicated above).

## REBUTTAL PROCESS

If a person challenges the accuracy of a criminal history check, refer the person to the nearest law enforcement agency to follow that law enforcement agency's process for challenging the criminal record. The individual should be advised that once the response to his/her challenge is received, he/she must provide that information to DHS.

## TRACKING METHODS (AUDIT)

As a requirement of the agreement with the Michigan State Police granting DHS direct LEIN access, local offices must document all LEIN clearances by completing the LEIN Clearance Log (DHS-268). These forms are to be completed as part of the audit process and must be maintained in a secure site, on file at the local office.